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7 Attorney for Plaintiff  
8 TOBY ERNESTINE CANO

9 UNITED STATES DISTRICT COURT  
10 EASTERN DISTRICT OF CALIFORNIA  
11 FRESNO DIVISION

12 TOBY ERNESTINE CANO,

13 Plaintiff,

14 v.

15 LELAND DUDEK, Acting  
16 Commissioner of Social Security,

17 Defendant.

Case No. 1:21-cv-01829-BAM

STIPULATION FOR THE AWARD AND  
PAYMENT OF ATTORNEY FEES AND  
EXPENSES PURSUANT TO THE  
EQUAL ACCESS TO JUSTICE ACT;  
~~[PROPOSED]~~ ORDER

18 IT IS HEREBY STIPULATED by and between the parties through their  
19 undersigned counsel, subject to the approval of the Court, that Plaintiff be awarded  
20 attorney fees and expenses in the amount of \$7,700.00, under the Equal Access to  
21 Justice Act (EAJA), 28 U.S.C. § 2412(d), and \$402.00 in costs under 28 U.S.C. § 1920.  
22 This amount represents compensation for all legal services rendered on behalf of  
23 Plaintiff by counsel in connection with this civil action, in accordance with 28 U.S.C.  
24 §§ 2412(d), 1920.

25 After the Court issues an order for EAJA fees to Plaintiff, the government will  
26 consider the matter of Plaintiff's assignment of EAJA fees to counsel. Pursuant to  
27 *Astrue v. Ratliff*, 560 U.S. 586, 598, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010), the ability  
28

1 to honor the assignment will depend on whether the fees are subject to any offset  
2 allowed under the United States Department of the Treasury's Offset Program. After  
3 the order for EAJA fees is entered, the government will determine whether they are  
4 subject to any offset.

5 Fees shall be made payable to Plaintiff, but if the Department of the Treasury  
6 determines that Plaintiff does not owe a federal debt, then the government shall cause  
7 the payment of fees, expenses and costs to be made directly to Plaintiff's counsel,  
8 Francesco Benavides, pursuant to the assignment executed by Plaintiff. Payments  
9 may be made by electronic fund transfer (EFT) or by check.

10 This stipulation constitutes a compromise settlement of Plaintiff's request for  
11 EAJA attorney fees and does not constitute an admission of liability on the part of  
12 Defendant under the EAJA or otherwise. Payment of the agreed amount shall  
13 constitute a complete release from, and bar to, any and all claims that Plaintiff and/or  
14 Francesco Benavides, including the Law Offices of Francesco Benavides, may have  
15 relating to EAJA attorney fees in connection with this action.

16 This award is without prejudice to the rights of Francesco Benavides to seek  
17 Social Security Act attorney fees under 42 U.S.C. § 406(b), subject to the savings  
18 clause provisions of the EAJA.

19  
20 Respectfully submitted,

21  
22 Dated: April 4, 2025

23 Law Offices of Francesco Benavides

24 By: /s/ Francesco Benavides  
25 FRANCESCO P. BENAVIDES  
26 Attorney for Plaintiff  
27  
28

1 Dated: April 4, 2025

MICHELE BECKWITH  
Acting United States Attorney  
MATHEW W. PILE  
Associate General Counsel  
Social Security Administration

5 By: Noah Schabacker\*  
6 NOAH SCHABACKER  
7 Special Assistant U.S. Attorney  
8 Attorneys for Defendant  
9 (\*Permission to use electronic signature  
obtained via email on April 4, 2025).

**ORDER**

Based upon the parties' Stipulation for the Award and Payment of Equal Access to Justice Act Fees and Expenses, **IT IS ORDERED** that fees and expenses in the amount of \$7,700.00 as authorized by 28 U.S.C. § 2412, and \$402.00 in costs under 28 U.S.C. § 1920, be awarded subject to the terms of the Stipulation.  
IT IS SO ORDERED.

Dated: April 7, 2025

/s/ Barbara A. McAuliffe  
UNITED STATES MAGISTRATE JUDGE